Supreme Court, U.S.
FILED

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No.

THE SUPREME COURT OF THE UNITED STATES

JOSEPH J. HOUSE

Petitioner-Appellant

v.

COMMISSIONER OF INTERNAL REVENUE

Respondent-Appellee

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF THE UNITED STATES

PETITION FOR A WRIT OF CERTIORARI

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12295

QUESTIONS PRESENTED FOR REVIEW

1. The questions present for review is one of First Impression. Should a Judge's opinion be set aside for clear error when a Judge makes an erroneous statement in his opinion in a civil case that asserts that the subject of the statement has committed a felony where there exists nothing in the record to support such a statement and no judicial proceeding has ever considered such a criminal act.

If the statement made by the Judge about the litigant is so outrageous can the statement indicate bias and prejudice against the litigant sufficient to flaw the opinion of the Judge and warrant the opinion of the Judge be set aside.

2. If a statement by a Judge in his opinion on a civil case states that person has committed a felony when there is nothing in the record to support such a statement, does the statement:

A. Deprive the subject of the statement due process as granted under the fifth amendment of the United States

Constitution.

i. In the Civil case at hand since the Judge was not fair, impartial or attentive enough to evaluate the evidence at hand in the civil case, or

ii. In the statement of fact made by the Judge that the subject of the statement committed a criminal act without the indictment by a grand jury depriving due process.

B. Deprive the subject of the statement of his sixth amendment rights as granted under the United States Constitution to a trial, nature and cause of the accusations, rights to confront witness' and a defense to the charges of fraud.

C. Render the subject of the statement to a cruel and unusual punishment of being labeled a criminal via a civil tax court proceeding which does not have the jurisdiction to make such a finding.

PARTIES TO THE PROCEEDING

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CITATION OF OPINIONS

United States Tax Court, *Joseph J. House and Joseph J. House Inc. v. Commissioner of Internal Revenue* (Docket Nos. 8664-98 and 8665-98)

Unites States Court of Appeals for the Seventh Circuit Court, *Joseph J. House and Joseph J. House, Inc. v. Commissioner of Internal Revenue* (Docket Nos. 00-4036 and 00-4037)

JURISDICTIONAL STATEMENT

The jurisdictional statement set forth in the brief of the appellant is incomplete and incorrect. A complete and correct statement of jurisdiction follows.

On May 11, 1998, Joseph J. House (taxpayer) petitioned the United States Tax Court for redetermination of a federal income tax deficiency and penalty for negligence under § 6662(a) of the Internal Revenue Code (26 U.S.C.) (the Code or I.R.C.), redetermined against him by the Commissioner of Internal Revenue for the year 1994. The Tax Court had jurisdiction pursuant to §§ 6213(a), 6214(a) and 7442 of the Code.

On August 17, 2000, the Tax Court entered its decision. The decision disposed of all claims of all parties and is therefore final and appealable. On November 14, 2000, within 90 days of entry of the decision, *see* I.R.C. § 7483, taxpayer timely filed a notice of appeal. The Appeals Court has jurisdiction under § 7482(a)(1) of the Code. The Supreme Court has review authority and jurisdiction under § 7482(a) of the Internal Revenue Code and § 1254 Title 28 USC. Appeals Court decision rendered December 14, 2001.

CONSTITUTIONAL PROVISIONS

The Judge deprived the petitioner of his personal property, his good name, without due process as required under the fifth amendment of the constitution. He found the petitioner guilty of a crime of tax fraud without indictment, without the due process required under the fifth amendment of the constitution of the United States.

The Judge found the petitioner liable for the civil fraud penalty, and added the false statement about 163 fraudulent corporations as an additional punishment to the petitioner. This statement turned a readers perspective of a civil tax case into a criminal tax case and that is cruel and unusual punishment of the petitioner prohibited under the eighth amendment of the United States Constitution.

The Judge deprived the petitioner of trial as required under the sixth amendment of the United States Constitution.

The Judge made a civil case look criminal which is against the very nature of our justice system.

STATEMENT OF CASE

When rendering an opinion on a United States Tax Court case, the Judge makes a statement that the petitioner in the case formed and conspired with 163 unrelated individuals to defraud the United States of income tax, thus committing tax fraud. There was nothing in the record to support such a statement and no judicial proceedings has ever made such a finding. How good is a Tax Court Judges opinion in a United States Tax Court case, when after reviewing all the evidence and testimony , he makes a statement in his opinion that the petitioner shared a fraudulent scheme with 163 other people, formed corporations for them, and used his scheme and their corporations to perpetuate a tax fraud on the United States, when there is nothing in the record of this case or any other proceeding to support such a statement. The Judge labeled the petitioner a felon, any reader of his opinion, including the IRS and the newspaper assumed that petitioner in case committed tax fraud conspiracy of the highest degree. The

Judge was presiding over a tax court case in which the petitioner had been determined by the Judge to owe additional tax on $60,000.00, $30,000.00 of which was reported on his sons' tax returns, $9,000.00 dollars of health insurance deducted by a related corporation, and $10,000.00 worth of business expenses deducted by the related corporation that the Judge determined personal. As an additional punishment, the Judge added the false statement about the 163 fraudulent corporations. He for all practical purposes convicted the petitioner of a tax felony based on no evidence whatsoever and no jurisdiction to do so.

ARGUMENT

This case should be reviewed by the supreme court to protect the rights of all taxpayers. The Judge in this case went to far to assess penalty upon the petitioner. A civil fraud penalty is an assertion of a penalty for civil not criminal matters. When the penalty is nominal in amount it may not be practical from a monetary standpoint not to seek legal

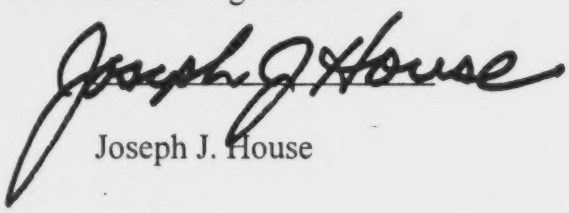
counsel to fight the penalty. It may well be financially beneficial to pay the penalty if one is imposed. This case should be reviewed by the Supreme Court of the United States to determine how far a Judge, the IRS and the media can go in labeling an individual as a felon. An assertion of a civil fraud penalty is not a conviction and the Judge, the IRS and the media has no inherent right to portray someone found liable for a civil penalty as having committed a criminal offense. The Judge and the IRS concocted a scheme here to portray a civil tax court matter as a criminal case and that violates the fifth, sixth and eight amendment rights of an individual to trial, due process and protection from cruel and unusual punishment.

CONCLUSION

The best way to correct the injustice of being labeled a felon is to grant a new trial to correct the record.

Wherefore, it is prayed that this writ be granted

Dated May 17, 2002



Joseph J. House

Petitioner